

JUL 17 1997

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket #96-98


In the Matter of)	
)	
Request by ALTS for Clarification of the)	CCB/CPD 97-30
Commission's Rules Regarding Reciprocal)	
Compensation for Information Service)	
Provider Traffic)	

COMMENTS OF ACC CORP.

ACC Corp., by its undersigned counsel, hereby submits the following comments in response to the Commission's July 2, 1997 Request for Comments in the above-referenced matter.

ACC Corp. ("ACC"), through its subsidiaries, provides switch-based telecommunications services in the United States, Canada and Mexico. ACC Long Distance Corp., a subsidiary of ACC Corp., provides both local and long distance telecommunications services in the United States. ACC was a pioneer in the efforts to provide switch-based competitive local exchange service in upstate New York. As a provider of local exchange service, including service to Internet Service Providers ("ISPs"), ACC will be affected significantly by any change in the Federal Communications Commission's ("FCC") current policies on the payment of reciprocal compensation for the transport and termination of local traffic under the Telecommunications Act of 1996.

ACC concurs with the ALTS petition that the requirement for the payment of reciprocal compensation contained in Section 251(b)(5) of the Telecommunications Act of 1996 is fully applicable to traffic transported to and terminated at an ISP end user customer

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served by a CLEC when the call originates from a LEC end user customer in the same local calling area. The Act, the Commission's Interconnection Order, industry practice and contract and tariff interpretation leaves no doubt of this conclusion. The recent effort to unilaterally impose a contrary result undertaken by a number of Regional Bell Operating Companies and other incumbent local exchange carriers is wholly without merit. Efforts by those companies to rewrite their interconnection agreements, ignore their treatment of their own ISP end user customers, and disregard their tariffs, is simply an example of the lengths to which the incumbent carriers are prepared to go to foreclose the development of meaningful local exchange competition. This effort relies on a total misreading of prior action of the Commission. As such, the Commission should act expeditiously to stop this attempt to withhold payments from CLECs. Not only does this seemingly concerted effort deny the CLECs compensation for costs they are incurring, it also increases CLECs costs to obtain compensation which is clearly theirs.

ACC's NYPSC Complaint

As the ALTS request indicates, NYNEX was one of the early carriers that sought to abrogate its compensation obligations to CLECs for terminating traffic from New York Telephone ("NYT") customers to a CLEC ISP end user customer in the same local calling area.

In New York, ACC and NYT exchange traffic with each other under the terms of P.S.C. Tariff No. 914 filed by NYT (the "Tariff") and concurred in by ACC. The tariff specifically addresses the provision of interconnection and reciprocal compensation between NYT and parties providing service pursuant to the Tariff.

Both ACC and NYT provide local exchange services to business customers, including some business customers operating as ISPs. As the name suggests, these companies provide their customers with access to the Internet. Typically, customers make a local phone call to an ISP's computer equipment, and the ISP's equipment then transmits information to and from the Internet based on signals from the customer. Pursuant to the Tariff, subscribers to ACC's local exchange service can place local calls to ISPs served by NYT; and subscribers to NYT's local exchange service can place local calls to ISPs served by ACC.

NYT sent two nearly identical letters dated April 15, 1997 and April 16, 1997 to ACC stating that NYT intended to unilaterally discontinue payments of reciprocal compensation for local exchange traffic terminating to ISPs. In its letters to ACC, NYT claimed that local exchange traffic delivered to ISPs is ineligible for reciprocal compensation between ACC and NYT, and stated that NYT intended to withhold reciprocal compensation payments for traffic NYT believes may have been delivered to ISPs and would seek refund of moneys previously paid.

On May 13, 1997, ACC filed a complaint with the New York Public Service Commission alleging that NYT's unilateral attempt to abrogate its tariff was unlawful. ACC further alleged that this unfounded and unreasonable position is inconsistent with both the spirit and letter of both the federal Telecommunications Act of 1996 and the Tariff, and constitutes a serious and willful violation of the Act and a breach of the terms of the Tariff.¹

¹ A copy of the Complaint is attached as Exhibit 1 for the Commission's convenience.

Tariff 914

Sections 2.1.1(A), 4.1, and 10.4.1 of the Tariff unambiguously establish the parameters for reciprocal compensation between ACC and NYT. Section 2.1.1(A) provides:

The Telephone Company shall, where facilities permit, provide: (i) Termination of intraLATA calls from end users of CLEC-provided local exchange services to the subscribers of the Telephone Company or end users of other CLECs or ITCs where both the originating CLEC or ITC interconnect to the Telephone Company at a Telephone Company Access Tandem and where the originating CLEC local service end user is assigned a phone number residing within a CLEC NXX code, and where both exchange services bear NPA-NXX designation corresponding to the same LATA.

Sections 4.1 and 10.4.1 of the Tariff set the terms and rates for "CLEC Switched Service" between ACC and NYT.

These sections illustrate the inconsistencies between NYT's "view" of this matter and its obligations under its Tariff. Pursuant to these provisions, to the extent an ISP purchases local exchange telephone service from, and is assigned a number by NYT, and receives calls which originate from users of ACC- provided local exchange services, where both exchange services are located in the same LATA, ACC is obligated to pay CLEC Switched Service compensation to NYT for termination of such calls. Likewise, because ACC concurs in the Tariff, NYT is obligated to pay CLEC Switched Service compensation to ACC for termination of calls originated by NYT's customers.

In its letters to ACC, contrary to the plain language of its Tariff, NYT contended that calls to ISPs do not "terminate" at the ISP's equipment, but rather terminate on the Internet. As the term is commonly employed in the telecommunications industry, however, a call placed over the public switched telecommunications network is considered to be "terminated" when it

is delivered to the local exchange service bearing the called telephone number. The call is completed at that point, regardless of the identity or status of the called party.² Nothing in the Tariff or applicable law or regulations create a distinction pertaining to calls placed to local exchange customers which happen to be ISPs.

If any further proof were required of the type of call a call to an ISP constitutes, one need only examine NYT's practice with its own ISP customers. The fact that NYT charges its own customers local calling rates for placing calls to NYT-served ISPs in the same local calling area confirms that no such distinction exists. The FCC's separations process assigns revenues and costs attributable to ISPs to local, rather than interstate, categories. Therefore, NYT has submitted cost studies and ARMIS reports to the FCC showing traffic that terminates to ISPs as local.

In its complaint, ACC clearly demonstrates that NYT's characterization of calls delivered to ISPs as "interstate" is incorrect and irrelevant to the issue of whether NYT is legally obligated to pay reciprocal compensation for such traffic. This Commission has repeatedly affirmed the rights of ISPs to employ local exchange services, under *intrastate* tariffs, to connect to the public switched telecommunications network.³ Thus, to the extent

² Feature Group A service is *not* an exception to this convention. Feature Group A is an Exchange Access service, which is legally distinguishable from local exchange service. ISPs, unlike interexchange carriers, are as a matter of law specifically allowed to employ local exchange services.

³ *Amendments to Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, 3 FCC Rcd 2631, para. 2 n.8 (1988). In its First Report and Order Regarding Access Charge Order, the FCC reaffirmed this position. *In the Matter of Access Charge Reform*, First Report and Order, CC Docket No. 96-262, ¶¶344-348, May 17, 1997. The FCC's Universal Service Order also affirms the position that local calls to ISPs are not interstate. The Order explicitly

that ACC provides local exchange services to ISPs, the provision of such services to such entities is wholly proper and fully within the scope of existing law and regulation. The mere fact that an ISP may enable a caller to access the Internet does not alter the legal status of the connection between the customer and the ISP as being a local call. The local call to the local exchange phone number of an ISP is a separate and distinguishable transmission from any subsequent Internet connection enabled by the ISP.

As the ALTS letter indicates, the Staff of the NYPSC promptly responded to the ACC complaint by advising NYT that its theory "is at odds with NYT's own treatment of this traffic as intrastate" and that it could not unilaterally change its tariff or Commission policy. Until that occurred, NYT was advised that it was expected to continue to pay compensation to CLECs for traffic terminated to ISP end user customers of the CLEC.⁴

If NYT, or other incumbent local exchange carriers, were allowed to magically transform local calls to some other form of call and thereby eliminate their obligation to pay reciprocal compensation, it would have severe anticompetitive implications. As ACC stated in its complaint to the NYPSC, any carrier terminating calls to an ISP incurs costs in terminating such calls (which are the same costs incurred in terminating calls to any other end user). Since NYT and the other ILECs control most of the originating traffic within their territories, their newly announced position would force ACC and other new entrants to terminate these calls

excludes ISPs from the obligation to contribute to universal service funding while providing that all interstate communications providers make such contributions. *In the Matter of Federal-State Joint Board on Universal Service*, Docket No. 96-45 at ¶¶83, 788, 789 (May 8, 1997).

⁴ A copy is attached as Exhibit 2 for the Commission's convenience.

without compensation. The inevitable result would be that no CLEC would be willing to furnish service to an ISP, since providing that service would result in immense, uncompensated termination costs. This would leave NYT and the other ILECs with a *de facto* monopoly over ISP end users, a state of affairs that was clearly not intended by the 1996 Act.

Further aggravating this anticompetitive effect, NYT and other incumbent local exchange providers are now offering their own Internet access service to consumers. By gaining monopoly power over local exchange service to ISPs and increasing their costs for network access, the LECs will be in a position to drive competing ISPs out of the local market, thereby leaving them with a *de facto* monopoly over access to the Internet as well and precluding competition for one of the fastest growing segments of the local exchange market.⁵

CONCLUSION

The Commission should expeditiously advise incumbent local exchange carriers seeking to abrogate their contractual or tariff commitments to pay reciprocal compensation for the termination of local calls, and that they cannot attempt to build this anticompetitive campaign on the basis of misstatements of FCC policy. The Commission should promptly advise the incumbents that the Act requires the payment of reciprocal compensation for the transport and termination of local traffic and that the Commission did not intend and, in fact, has not in any way changed its oft stated position that ISPs are end users and that, therefore, a call to an ISP

⁵ This result would be particularly anomalous since, if as NYNEX asserts, ISP traffic is to be dealt with as interstate traffic, which ACC has shown it is not, NYT's interstate offering is in violation of Section 271 of the Act. NYNEX has neither sought nor received 271 authority from this Commission and, therefore, effectively concedes it is in violation of the Act, if the Commission were to adopt NYNEX's argument.

from an end user in a local service area to an ISP in that same local service area is a local call regardless of whether the ILEC or the CLEC terminates the call.

The RBOCs should not be permitted to utilize their monopoly power to unilaterally abrogate obligations under their contracts, tariffs and the Telecommunication Act of 1996. The RBOCs' transparent effort to deprive new entrants of revenues and impose costs violates both the letter and spirit of the law.

Respectfully submitted,



Richard M. Rindler
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Phone: (202) 424-7500
Fax: (202) 424-7645

Counsel for ACC Corp.

Dated: July 17, 1997

SWIDLER
&
BERLIN
CHARTERED

RICHARD M. RINDLER
ATTORNEY-AT-LAW

DIRECT DIAL
(202) 424-7771

May 12, 1997

VIA OVERNIGHT DELIVERY

John C. Crary, Secretary
New York Public Service Commission
Agency Building 3
Three Empire State Plaza
Albany, New York 12223

Re: Complaint of ACC National Telecom Corp.

Dear Mr. Crary:

Enclosed for filing are an original and five (5) copies of the Complaint of ACC National Telecom Corp. against New York Telephone Company for Breach of Tariff Terms, and Request for Immediate Relief.

Please date-stamp the enclosed extra copy of this filing and return it in the self-addressed, postage paid envelope provided. If you have any questions regarding this filing, please do not hesitate to contact me.

Very truly yours,

Richard M. Rindler

Richard M. Rindler

Counsel for
ACC National Telecom Corp.

Enclosure

cc: Maureen Swift Regina Keeney (FCC)
Richard Ottalagana Richard Metzger (FCC)
Andrew D. Lipman Daniel Martin (NYPSC)
Richard M. Rindler Deborah Maisel (DOJ)
Russell M. Blau

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Complaint of ACC National Telecom Corp.
against New York Telephone Company for
Breach of Tariff Terms, and Request
for Immediate Relief**

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)
)

Case 97-C-_____

**COMPLAINT OF
ACC NATIONAL TELECOM CORP.**

**Russell M. Blau
Richard M. Rindler
Swidler & Berlin, Chtd.
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Counsel for ACC National Telecom Corp.

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Complaint of ACC National Telecom Corp.)	
against New York Telephone Company for)	Case 97-C-_____
Breach of Tariff Terms, and Request)	
for Immediate Relief)	

**COMPLAINT OF
ACC NATIONAL TELECOM CORP.**

ACC National Telecom Corp. ("ANTC"), by its undersigned counsel, hereby files this complaint against New York Telephone Company ("NYT") for breach of the terms of its filed tariff, and requests that the New York Public Service Commission ("Commission") provide immediate relief by issuing a Cease and Desist Order enjoining NYT from taking actions it has threatened.

ANTC is a local exchange carrier providing residential and business telephone services in various regions of New York State in competition with NYT. ANTC and NYT exchange traffic with each other under the terms of P.S.C. Tariff No. 914 filed by NYT (the "Tariff") in which ANTC is a concurring carrier.¹ The tariff specifically addresses the provision of interconnection and reciprocal compensation between NYT and parties providing service pursuant to the Tariff. The Commission has jurisdiction and authority to grant the relief requested pursuant to Public Service Law Sections 94 and 96.

¹ ANTC and NYT entered into an interim interconnection agreement on March 27. That agreement has not been filed with or approved by the Commission. ANTC is presently engaged in arbitration with NYT on issues not contained in the interim agreement. Pending approval of an agreement with NYT, ANTC continues to exchange traffic pursuant to P.S.C. Tariff No. 914.

Pursuant to the Tariff, ANTC and NYT exchange traffic between their respective networks, so that a customer subscribing to ANTC's local exchange service can place calls to customers subscribing to NYT's local exchange service, and *vice versa*. As explained in more detail below, the Tariff requires that each company pay compensation to the other for exchanged traffic that terminates on the other company's network.

Both ANTC and NYT provide local exchange services to business customers, including some business customers operating as Internet Service Providers ("ISPs"). As the name suggests, these companies provide their customers with access to the Internet. Typically, customers make a local phone call to an ISP's computer equipment, and the ISP's equipment transmits information to and from the Internet based on signals from the customer. Pursuant to the Tariff, subscribers to ANTC's local exchange service can place local calls to ISPs served by NYT; and subscribers to NYT's local exchange service can place local calls to ISPs served by ANTC.

Recently, NYT sent two nearly identical letters dated April 15, 1997 and April 16, 1997, to ANTC stating that NYT intended to unilaterally discontinue payments of reciprocal compensation for local exchange traffic terminating to ISPs. (Copies of the letters are attached hereto as Exhibits A and B.) In its letters to ANTC, NYT claimed that local exchange traffic delivered to ISPs is ineligible for reciprocal compensation between ANTC and NYT, and stated that NYT intended to withhold reciprocal compensation payments for traffic NYT believes may have been delivered to ISPs and would seek refund of moneys previously paid. This unfounded and unreasonable position is inconsistent with both the spirit and letter of both the federal Telecommunications Act of 1996 (the "Act") and the Tariff, and constitutes a serious and willful violation of the Act and a breach of the terms of the Tariff.

Sections 2.1.1(A), 4.1, and 10.4.1 of the Tariff unambiguously establish the parameters for reciprocal compensation between ANTC and NYT. Section 2.1.1(A) provides:

The Telephone Company shall, where facilities permit, provide: (i) Termination of intraLATA calls from end users of CLEC-provided local exchange services to the subscribers of the Telephone Company or end users of other CLECs or ITCs where both the originating CLEC or ITC interconnect to the Telephone Company at a Telephone Company Access Tandem and where the originating CLEC local service end user is assigned a phone number residing within a CLEC NXX code, and where both exchange services bear NPA-NXX designation corresponding to the same LATA.

Sections 4.1 and 10.4.1 of the Tariff set the terms and rates for "CLEC Switched Service" between ANTC and NYT.

While other provisions of the Tariff also oppose NYT's position, these sections illustrate the inconsistencies between NYT's "view" of this matter and its obligations under its Tariff. Pursuant to these provisions, to the extent an ISP purchases local exchange telephone service from, and is assigned a number by NYT, and receives calls which originate from users of ANTC-provided local exchange services, where both exchange services are located in the same LATA, ANTC is obligated to pay CLEC Switched Service compensation to NYT for termination of such calls. Likewise, because ANTC concurs in the Tariff, NYT is obligated to pay CLEC Switched Service compensation to ANTC for termination of calls originated by NYT's customers. NYT has identified no instances where such conditions are not in existence.

Contrary to the plain language of its Tariff, NYT contends that calls to ISPs do not "terminate" at the ISP's equipment, but rather terminate on the Internet. As the term is commonly employed in the telecommunications industry, however, both colloquially and authoritatively, a call placed over the public switched telecommunications network is considered

to be "terminated" when it is delivered to the local exchange service bearing the called telephone number. The call is completed at that point, regardless of the identity or status of the called party.² Nothing in the Tariff or applicable law or regulations create a distinction pertaining to calls placed to local exchange customers which happen to be ISPs. The fact that NYT charges its own customers local calling rates for placing calls to ISPs confirms that no such distinction exists. For example, NYT has submitted cost studies and ARMIS reports to the Commission showing traffic that terminates to ISPs as local. The separations process employed by NYT also assigns revenues and costs attributable to ISPs to local, rather than interstate, categories.

NYT's characterization of calls delivered to ISPs as "interstate" is incorrect and irrelevant to the issue of whether NYT is legally obligated to pay reciprocal compensation for such traffic. The FCC has repeatedly affirmed the rights of ISPs to employ local exchange services, under *intrastate* tariffs, to connect to the public switched telecommunications network.³ Thus, to the extent that ANTC may from time to time provide local exchange services to ISPs, the provision of such services to such entities is wholly proper and fully within the scope of existing law and regulation. The mere fact that an ISP may enable a caller to access the Internet does not alter the legal status of the connection between the customer and the ISP as being a local call. The local

² Feature Group A service is *not* an exception to this convention. Feature Group A is an Exchange Access service, which is legally distinguishable from local exchange service. ISPs, unlike interexchange carriers, are as a matter of law specifically allowed to employ local exchange services.

³ *Amendments to Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, 3 FCC Rcd 2631, para. 2 n.8 (1988). Based on statements by Commissioners at the May 7, 1997, public meeting, and information contained in the FCC's press release concerning its approval of its access charge reform order, which is expected to be released imminently, the Commission affirmed its conclusion that LECs may not assess interstate access charges on ISPs.

call to the local exchange phone number of an ISP is a separate and distinguishable transmission from any subsequent Internet connection enabled by the ISP.

The Commission should know that the position asserted by NYT has been soundly rejected by at least five other state regulatory agencies. When another RBOC asserted a similar argument that traffic originated by or terminated to enhanced service providers should be exempted from reciprocal compensation arrangements under Interconnection Agreements, the states of Arizona,⁴ Colorado,⁵ Minnesota,⁶ Oregon,⁷ and Washington⁸ all declined to treat traffic to ESPs, including Internet service providers, any differently than other local traffic.

⁴ *Petition of MFS Communications Company, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions with US WEST Communications, Inc., Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996*, Opinion and Order, Decision No. 59872, Docket No. U-2752-96-362 et al. (Arizona Corp. Comm. Oct. 29, 1996) at 7.

⁵ *Petition of MFS Communications Company, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of Interconnection Rates, Terms, and Conditions with US WEST Communications, Inc.*, Decision Regarding Petition for Arbitration, Docket No. 96A-287T (Col. PUC Nov. 5, 1996) at 30.

⁶ *Consolidated Petitions of AT&T Communications of the Midwest, Inc., MCI Metro Access Transmission Services, Inc., and MFS Communications Company for Arbitration with US WEST Communications, Inc., Pursuant to Section 252(b) of the Federal Telecommunications Act of 1996*, Order Resolving Arbitration Issues, Docket Nos. P-442, 421/M-96-855, P-5321, 421/M-96-909, P-3167, 421/M-96-729 (Minn. PUC Dec. 2, 1996) at 75-76.

⁷ *Petition of MFS Communications Company, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. Sec. 252(b) of the Telecommunications Act of 1996*, Commission Decision, Order No. 96-324 (Ore. PUC Dec. 9, 1996) at 13.

⁸ *Petition for Arbitration of an Interconnection Agreement Between MFS Communications Company, Inc. and US WEST Communications, Inc., Pursuant to 47 USC § 252*, Arbitrator's Report and Decision, Docket No. UT-960323 (Wash. Utils. and Transp. Comm. Nov. 8, 1996) at 26.

NYT's position would also have severe anticompetitive implications. Any carrier terminating calls to an ISP incurs costs in terminating such calls (which are the same costs incurred in terminating calls to any other end user). Since NYT controls most of the originating traffic within its territory, its newly announced position would force ANTC and other new entrants to terminate these calls without compensation. The inevitable result would be that no CLEC would be willing to furnish service to an ISP, since providing that service would result in immense, uncompensated termination costs. This would leave NYT with a *de facto* monopoly over ISP end users, a state of affairs that was clearly not intended by Section 271 and other provisions of the 1996 Act.

Further aggravating this anticompetitive effect, NYT is now offering its own Internet access service to consumers. By gaining monopoly power over local exchange service to ISPs and increasing their costs for network access, NYT will be in a position to drive competing ISPs out of the local market, thereby leaving NYT with a *de facto* monopoly over access to the Internet as well.

If, as NYNEX asserts, ISP traffic is interstate communications, although ANTC asserts it is not,⁹ then NYT's interstate service offering is in violation of Section 271 of the Telecommunications Act of 1996. That section prohibits an RBOC, or any affiliate of an RBOC, from providing in-region interLATA service without first obtaining the consent of the FCC.¹⁰ NYT has not received consent to provide interLATA service pursuant to Section 271. Because

⁹ See, fn. 2 *supra*. The FCC's Universal Service Order affirms the position that local calls to ISPs are not interstate. The Order explicitly excludes ISPs from the obligation to contribute to universal service funding while providing that all interstate communications providers make such contributions. *In the Matter of Federal-State Joint Board on Universal Service*, Docket No. 96-45 at ¶¶83, 788, 789 (May 8, 1997).

¹⁰ 47 U.S.C. §271(b)(1).

NYT provides Internet access to local exchange customers, if Internet traffic is interstate communications, then NYT is providing in-region interLATA services in violation of Section 271.

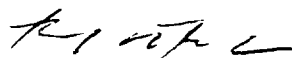
Finally, nothing in the Tariff permits the withholding of payments threatened by NYT. Although Section 2.4.1(B)(2)(c) addresses "billing disputes," it does not address the situation presented here. This situation does not involve a dispute related to the mismeasurement or miscalculation of charges under the Tariff. Therefore, the Tariff does not grant NYT the authority to take the unilateral actions threatened in the April 15 and April 16 letters. Should NYT be allowed to carry out the calculated anticompetitive actions threatened in its letters, ANTC and its customers will suffer severe and irreversible harms, and the result would have the effect of undermining the development of competition in the local telecommunications market.

The binding terms of the Tariff unambiguously affirm the appropriateness of the reciprocal compensation charges which NYT now seeks to disclaim. NYT's actions for the past year in paying these charges confirms that understanding. Given these facts and the plain language of the Tariff, ANTC is perplexed as to how NYT could have arrived at the conclusions conveyed in its letters.

For all these reasons, ANTC requests that the Commission declare that the Tariff's traffic exchange provisions are fully applicable to local exchange service calls that terminate to ISPs; expeditiously issue a Cease and Desist Order enjoining NYT from taking the illegal and

anticompetitive actions threatened in its letters; and direct NYT to forward all sums due and all sums owing in the future to ANTC pursuant to the terms of the Tariff.

Respectfully submitted,



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Richard M. Rindler
Swidler & Berlin, Chtd.
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Washington, D.C. 20007
(202) 424-7500
Fax (202) 424-7645

Counsel for ACC National Telecom Corp.

Dated: May 13, 1997

NYNEX
222 Bloomingdale Road, White Plains, NY 10605
Tel 914 644 4758
Fax 914 681 0902

Patrick A. Gansile
Managing Director, Local Carrier Markets

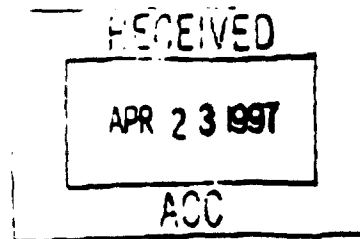


EXHIBIT A

NYNEX

April 15, 1997

Maureen Swift
Director
ACC National Telecom
400 West Ave
Rochester NY 14611

Dear Maureen:

NYNEX has been receiving bills seeking reciprocal compensation for traffic that is being delivered to Internet Service Providers ("ISPs"). It is our view that such traffic is interstate in nature and not eligible for reciprocal compensation under the FCC's rules.

NYNEX is conducting a study to determine the number of minutes that were delivered to ISPs in February of this year. Once this study is completed, we will then ask that you issue us a credit for any reciprocal compensations bills that we have already paid. If our study shows that you delivered Internet traffic to us, we will issue an offsetting credit. In addition, we would like you to agree that neither of us will include Internet traffic in future bills for reciprocal compensation.

Please confirm your agreement by signing the enclosed copy of this letter. If we cannot reach an agreement, NYNEX will withhold payment of reciprocal compensation bills pending resolution of this issue. We hope that will not be necessary.

If you have any questions, I will be glad to discuss this matter further with you.

Sincerely,

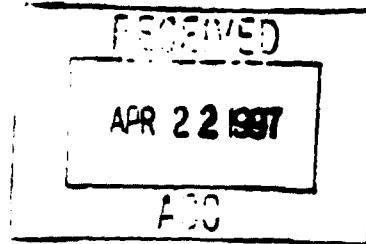
Patrick A. Gansile / 1151

Agreed to:

NYNEX

222 Bloomingdale Road, White Plains, NY 10603
 Tel 914 644 4758
 Fax 914 681 0902

Patrick A. Carzillo
 Managing Director, Local Carrier Markets

**NYNEX**

April 16, 1997

Maureen Swift
 Director
 ACC National Telecom
 400 West Ave
 Rochester NY 14611

Re: Reciprocal Compensation for Internet Traffic

Dear Maureen:

NYNEX has been receiving bills seeking reciprocal compensation for traffic that is being delivered to Internet Service Providers ("ISPs"). It is our view that such traffic is interstate in nature and not eligible for reciprocal compensation under the terms of our Interconnection Agreement and the FCC's rules.

NYNEX is conducting a study to determine the number of minutes that were delivered to ISPs in February of this year. Once this study is completed, we will then ask that you issue us a credit for any reciprocal compensations bills that we have already paid. If our study shows that you delivered Internet traffic to us, we will issue an offsetting credit. In addition, we would like you to agree that neither of us will include Internet traffic in future bills for reciprocal compensation.

Please confirm your agreement by signing the enclosed copy of this letter. If we cannot reach an agreement, NYNEX will withhold payment of reciprocal compensation bills pending resolution of this issue. We hope that will not be necessary.

If you have any questions, I will be glad to discuss this matter further with you.

Very truly yours,

P. A. Carzillo

Agreed to:

CERTIFICATE OF SERVICE

I, Jeannine Allen, hereby certify that on this 12th day of May, 1997, a copy of the foregoing **Complaint of ACC National Telecom Corp.. against New York Telephone Company for Breach of Interconnection Terms, and Request for Immediate Relief** was sent by overnight delivery to the following:

Mr. Patrick A. Garzillo
Managing Director, Local Carrier Markets
NYNEX
222 Bloomington Road
White Plains, NY 10605

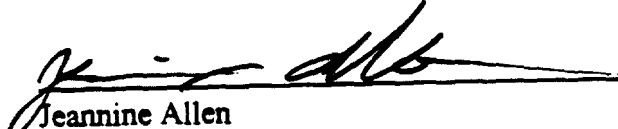

Jeannine Allen

EXHIBIT 2

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12243-1399

Phone: (518) 474-2222

PUBLIC SERVICE COMMISSION

JOHN R. O'NEAL
Chairman
JOSEPH W. BELMONT
Deputy Chairman
THOMAS J. SUDRANT
ROBERT G. WELCH



LAWRENCE D. WALSH
Acting General Counsel

JOHN C. CRAFT
Secretary

May 29, 1997

Mr. William Allan
Vice President
Regulatory Matters
New York Telephone Company
150 State Street
Albany, NY 12207

Dear Mr. Allan:

We have received a number of formal complaints from interconnecting local exchange carriers objecting to New York Telephone Company's (NYY) pronouncement advising carriers that traffic delivered by NYY to interconnecting local exchange carriers for termination to Internet Service Providers is interstate in nature and is not eligible for reciprocal compensation. The interconnecting local exchange carriers were informed of this via letters from Patrick Garzillo dated April 15 and 16, 1997.

Please be advised that the interpretation expressed in NYY's letters has not been approved by the Public Service Commission and is at odds with NYY's own treatment of this traffic as intrastate in its assessment of usage charges to other customers.

As you know, the Commission has procedures to address changes to existing tariffs or Commission policies on a prospective basis. If NYT believes such changes are necessary to address any reciprocal compensation matter, it should use those avenues. In the interim, we expect NYT to pay compensation to local exchange carriers for traffic delivered by NYT to the interconnecting carriers for termination to any Internet Service Providers, and to pay withheld compensation for any such previously delivered traffic.

Sincerely,

Alan Bausback

Alan Bausback
Acting Director
Communications Division


cc: Maureen Swift, ACC
Leo Masse, Cablevision
Alex J. Harris, NPS
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